IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1600 OF 2001
IN
SUMMARY SUIT NO.6668 OF 1999

Lloyd Triestino ..Plaintiff

Vs.

Viral Syntex Ltd. ..Defendants

Mr.Akshay Vani i/b Singhania and Co.for the plaintiff

Mr.A.Kamath i/b V.Deshpande and Co. for the defendants

CORAM : S.U.KAMDAR, J
DATED : 7TH OCTOBER, 2005

P.C.:

1. The learned counsel for the plaintiffs seeks leave to withdraw the motion with liberty to obtain exparte decree as defendants have failed to file vakalatnama. The defendants advocate appearing has made a statement that they have filed Vakalatnama. Vakalatnama was under objection. He says that they are no more appearing for the defendant as they have handed back the papers to the defendant. I have perused the present record and from the record I find that by two orders

dt.25.7.01 and order dt.18.6.02 it has been recorded that the company was under BIFR. However, on enquiries made by the plaintiff, plaintiff has come to know that this company Viral Synthetics was never under BIFR. In that view of the matter, provision u.s.22 of the Sick Industrial Companies Act does not apply since there is no Vakalatnama on record of the defendant. Plaintiffs is permitted to obtain exparte decree as required and the following order is passed.

2. The suit is on dishonoured cheque. The learned counsel for the defendants has drawn my attention to the various admission of the defendant company. Plaintiff has also tendered compilation of documents which are marked Ex.P-1 collectively. In view of the fact that defendants though served are not represented and the advocate whose Vakalatnama is under objection is no more appearing for the defendants and he states that he has informed the defendant that the matter is fixed today by letter dt.3.10.05. Inspite of the same, none appears for the defendants. I therefore pass the decree as prayed.Notice of Motion as well as

Summary Suit are disposed of accordingly. Refund of Court Fee as per rules. No order as to costs.